

08/04/03  
17119 U.S. PTO

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Attorney Docket No. 43154.70

03913 U.S. PTO  
10/633820  
08/04/03

CONTINUING APPLICATION TRANSMITTAL

Mail Stop PATENT APPLICATION  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a request for filing a

☒ Continuation ☐ Divisional  
application, under 37 C.F.R. § 1.53(b), of pending prior Divisional Application No. 09/971,315, filed October 4, 2001 for: DEVICE AND METHOD FOR TREATMENT OF GASTROESOPHAGEAL REFLUX DISEASE by: Brian D. Zelickson and Robert A. Ganz. The entire disclosure of the prior application is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

Enclosed are:

- ☒ Specification and Abstract 23 pages  
☐ Copy of Prior Specification  
or  
☒ Substitute Specification including no new matter
- ☒ Drawings - 3 sheets (Figs. 1-4)
- ☒ Combined Declaration and Power of Attorney  
☐ Newly executed  
or  
☒ Copy from prior application

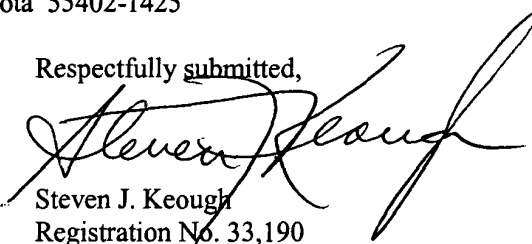
The filing fee has been calculated as shown below:					
	No. Filed	No. Extra	Small Entity Rate	OR	Large Entity Rate
Basic Fee			\$ 375	OR	\$ 740
Total Claims	74 - 20	= 54	x 9 = \$486	OR	x 18 = \$*
Independent Claims	10 - 3	= 7	x 42 = \$294	OR	x 84 = \$*
Presence of Multiple Dependent Claim			+ 140	OR	+ 280
		<b>TOTAL</b>	<b>\$ 1155.00</b>	<b>TOTAL</b>	<b>\$</b>
*If the difference is less than zero, enter "0"					

1. ☒ A check in the amount of \$1155.00 is enclosed.

2. ☐ Cancel in this application claims \_\_\_\_\_ of the prior application before calculating the filing fee. At least one independent claim is retained for filing purposes.
3. ☒ Amend the specification by inserting before the first line the sentence: --This is a ☒ Continuation ☐ Division of Application No. 09/971,315 filed October 4, 2001, now U.S. Patent No. 6,604,004, issued August 5, 2003, which in turn is a Divisional of Application No. 09/475,580, filed December 30, 1999, now U.S. Patent No. 6,321,121 B1, issued November 20, 2001, which in turn is a Continuation of Application 08/749,723, filed November 15, 1996, now U.S. Patent 6,073,052, issued June 6, 2000.--
4. ☐ Priority of foreign application(s) No. \_\_\_\_\_ filed \_\_\_\_\_ is claimed under 35 U.S.C. § 119. The certified copy was filed in prior Application No. \_\_\_\_\_ on \_\_\_\_\_.
5. ☐ The prior application is assigned of record to \_\_\_\_\_ recorded at Reel \_\_\_\_\_, Frame \_\_\_\_\_.
6. ☐ A Preliminary Amendment is enclosed. Claims added by this Amendment are properly numbered consecutively beginning with the number next following the highest numbered claim in the prior application.
7. ☐ An Information Disclosure Statement is enclosed.
8. ☒ Applicants are entitled to small entity status in accordance with 37 CFR 1.27.
9. ☐ CD-ROM or CD-R in duplicate, and Compact Disc Transmittal are enclosed.
10. ☐ Request and Certification Under 35 U.S.C. 122(b)(2)(B)(i) (nonpublication).
11. ☒ Address all future communications to:

Steven J. Keough  
Fredrikson & Byron, P.A.  
4000 Pillsbury Center  
200 South Sixth Street  
Minneapolis, Minnesota 55402-1425

Respectfully submitted,

  
Steven J. Keough  
Registration No. 33,190

*The Commissioner is hereby authorized to grant any extensions of time and to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required during the entire pendency of this application to Deposit Account No. 06-1910.*

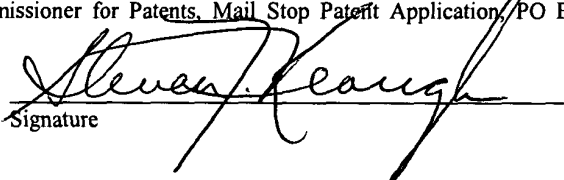
Filed: October 4, 2001

*CERTIFICATE OF EXPRESS MAIL*

"Express Mail" mailing label number EV 325075073 US. Date of Deposit: August 4, 2003. I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to the Commissioner for Patents, Mail Stop Patent Application, PO Box 1450, Alexandria, VA 22313-1450.

Steven J. Keough

Name of Person Making Deposit

  
Signature

#2833922\1

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 43154.70

Zelickson, et al.

Continuation of Application No. 09/971,315

Examiner: *Unknown*

Filed: October 4, 2001

Group Art Unit: *Unknown.*

For: DEVICE AND METHOD FOR TREATMENT OF GASTROESOPHAGEAL REFLUX  
DISEASE

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NONPUBLICATION REQUEST UNDER 35 U.S.C. 122(b)(2)(B)(i)

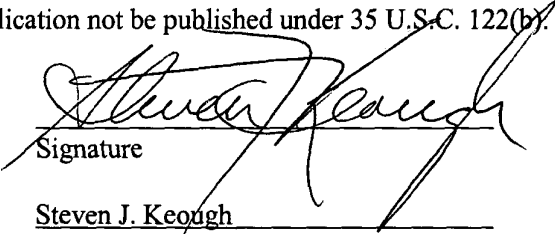
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

I hereby request that the attached application not be published under 35 U.S.C. 122(b).

4 AUGUST 2003  
Date

  
Signature

Steven J. Keough  
Name

Attorney for Applicants  
Title

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b) the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the application **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

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